

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 METROPOLITAN LIFE INSURANCE
5 COMPANY,

6 Plaintiff,

7 v.

8 MR. DANIEL R. DOWNES, *et al.*,

9 Defendants.

Case No. 2:22-cv-00894-MMD-BNW

**ORDER ON MOTION FOR
PROTECTIE ORDER**

10 Before the Court is Defendant Karen Macaulay's Motion for Protective Order (ECF No.
11 38). Defendant Christa D. Shedd a/ka/ Christa Downes filed a response (ECF No. 49) to which
12 Defendant Karen Macaulay replied (ECF No. 50).

13 **I. Background**

14 This is an interpleader action based on a life insurance policy of Decedent Daniel Downes.
15 Plaintiff Metropolitan Life Insurance Company filed this action for a determination of the proper
16 parties to the life insurance benefits of Decedent.

17 Karen Macaulay was married to Daniel Downes. They divorced in 2010. The divorce
18 decree in Case No. D-10-431684-D states that their children are the beneficiaries of Daniel
19 Downes' life insurance policy.

20 After divorcing Karen Macaulay, Daniel Downes married Christa Shedd.

21 Following Daniel Downes' death, Christa Shedd and her child claimed to be beneficiaries
22 of a certain coverage of the life insurance policy.

23 The Family Court ordered that the file containing documents of the divorce between
24 Daniel Downes and Karen Macaulay be sealed "to the extent allowed by law." ECF No. 38
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1 Exhibit 2. Christa Shedd tried to have that file unsealed, but the Court denied her request.¹ ECF
2 No. 38 Exhibit 3.

3 During Karen Macaulay's deposition, Christa Shedd asked her several questions Karen
4 Macaulay believed to be subject to the Family Court's sealing order. As such, she terminated the
5 deposition pursuant to Fed.R.Civ.P. 30(d) to obtain clarification from this Court regarding the
6 scope of the sealing order. In turn, the issue before this Court is whether NRS 125.110 prohibits
7 Karen Macaulay from testifying about documents that were sealed in her divorce proceeding
8 pursuant to that statute.

9 **II. Analysis**

10 A party may seek a protective order to limit discovery under Federal Rule of Civil
11 Procedure 26(c), as Defendant Karen Macaulay has done here. Rule 26(c) provides, in part, that
12 "the court may, for good cause, issue an order to protect a party or person from annoyance,
13 embarrassment, oppression, or undue burden or expense." Fed. R. Civ. P. 26(c). The burden is on
14 the party seeking the order to make the showing of good cause "by demonstrating harm or
15 prejudice that will result from the discovery." *Rivera v. NIBCO, Inc.*, 364 F.3d 1057, 1063 (9th
16 Cir. 2004).

17 "[I]t is solely within the province of the state courts to authoritatively construe state
18 legislation." *Cal. Teachers Ass'n v. State Bd. of Educ.*, 271 F.3d 1141, 1146 (9th Cir.2001). If the
19 state court has not construed the relevant statute, this Court must interpret the statute as the
20 Supreme Court of Nevada would and follow Nevada's rules of statutory construction. *Planned*
21 *Parenthood of Idaho, Inc.*, 376 F.3d at 925. "In Nevada, words in a statute should be given their
22 plain meaning unless this violates the spirit of the act." *V & S Ry., LLC v. White Pine Cty.*, 211
23 P.3d 879, 882 (2009). Moreover, "a statute should not be read in a manner that renders a part of a
24 statute meaningless or produces an absurd or unreasonable result." *Id.* Further, the Nevada

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27 ¹ This Court will not determine whether the state court decision to deny Christa Shedd access to the
28 documents was consistent with NRS 125.110. Federal district courts, as courts of original jurisdiction, do not have
subject matter jurisdiction to review errors allegedly committed by state courts. *Rooker v. Fidelity Trust Co.*, 263
U.S. 413, 416 (1923).

1 Supreme Court has made clear that “every reasonable construction must be resorted to, in order to
2 save a statute from unconstitutionality.” *State v. Castaneda*, 245 P.3d 550 (2010), opinion
3 modified on denial of reh'g, No. 52911, 2010 WL 5559401 (Nev. Dec. 22, 2010) (citing *Hooper*
4 *v. California*, 155 U.S. 648, 657(1895)).

5 As applicable here, NRS 125.110(1)(b) states that “the pleadings, the finding of the court,
6 any order made on motion as provided in Nevada Rules of Civil Procedure, and the judgment”
7 shall be open to public inspection in the clerk's office. However, upon written request of either
8 party to the action “[a]ll other papers, records, proceedings and evidence, including exhibits and
9 transcript of the testimony, shall...be sealed and shall not be open to inspection except to the
10 parties or their attorneys, or when required as evidence in another action or proceeding.” NRS
11 125.110(2).

12 The statute’s plain language does not prohibit a person from testifying about the sealed
13 documents.

14 In addition, this Court must construe the statute to in a way that does not render it
15 unconstitutional. *State v. Castaneda*, 245 P.3d 550. The Nevada Supreme Court has spoken on a
16 similar issue in *Johanson v. Eighth Jud. Dist. Ct. of State of Nev. ex rel. Cnty. of Clark*, 182 P.3d
17 94, 98 (2008). In that case the Nevada Supreme Court had to determine the constitutionality of a
18 gag order given by a Family Court Judge prohibiting the parties from discussing matters that had
19 been sealed. The Nevada Supreme Court held that “[a] gag order preventing participants from
20 making extrajudicial statements about their own case amounts to a prior restraint on speech and
21 undermines First Amendment rights.”² *Johanson*, 182 P.3d at 98. It further held that “[g]ag orders
22 must be narrowly drawn if no less restrictive means are available; they may be entered only when
23 there exists a serious and imminent threat to the administration of justice.” *Id.* In light of this,
24 construing NRS 125.110 to include such a gag order would undermine the Supreme Court of
25 Nevada’s holding in the *Johanson* case.

1 Given the above, this Court does not find good cause to issue a protective order in this
2 case. Moreover, Karen Macaulay has not met her burden of demonstrating that harm or prejudice
3 will result from the discovery. Moreover, to the extent the parties want to deem the information
4 confidential they are free to designate it as such and seek to have any such testimony sealed
5 before this Court.

6 **III. Conclusion**

7 **IT IS ORDERED** that Defendant Karen Macaulay's Motion for Protective Order (ECF
8 No. 38) is **DENIED**.

9 **IT IS FURTHER ORDERED** that the parties meet and confer within 7 days of today
10 and determine a mutually agreeable time for Karen Macaulay's continued deposition. Such
11 deposition must take place within 45 days of this Order.

12 **IT IS FURTHER ORDERED** that the hearing set for September 26, 2023 is
13 **VACATED**.

14 DATED: September 25, 2023.

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16 BREND A WEKSLER
17 UNITED STATES MAGISTRATE JUDGE
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